

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JUL 12 2005

JOHN F. CORCORAN, CLERK  
BY: *Samuel J. Kiser*  
DEPUTY CLERK

DEVINCHE ALBRITTON,  
Plaintiff,

)  
Civil Action No. 7:05cv00384

v.

)  
MEMORANDUM OPINION  
& ORDER

GENE JOHNSON, et al.,  
Defendants.

)  
By: Jackson L. Kiser  
Senior U.S. District Judge

This matter is before the court upon plaintiff's motion which the court will construe as a motion for preliminary injunctive relief, document number 7. Plaintiff requests that this court issue a preliminary injunction ordering that he be placed in protective custody. Plaintiff claims that defendants, in retaliation for both this suit and another pending suit, may try to cause him physical harm and prevent him from pursuing these matters by transferring him to a high security level institution.

Preliminary injunctive relief is an extraordinary remedy that courts should apply sparingly. See Direx Israel, Ltd. v. Breakthrough Med. Corp., 952 F.2d 802, 811 (4<sup>th</sup> Cir. 1991). In determining whether preliminary injunctive relief should be granted, the court applies the "balance of hardship" test. Wetzel v. Edwards, 635 F.2d 283, 287 (4<sup>th</sup> Cir. 1980). Under this test, the court should consider four factors: 1) whether the plaintiff will suffer irreparable harm if the relief is not granted; 2) the likelihood of harm to the defendant if relief is granted; 3) the likelihood that plaintiff will eventually succeed on the merits; and 4) whether public interest lies with granting relief. Blackwelder Furniture Co. of Statesville, Inc. v. Seelig Mfg., Co., 550 F.2d 189, 195 (4<sup>th</sup> Cir. 1977). Without a showing that plaintiff will suffer imminent, irreparable harm, the court cannot grant interlocutory injunctive relief. Rum Creek Coal Sales, Inc. v. Caperton,

926 F.2d 353, 360 (4<sup>th</sup> Cir. 1991).

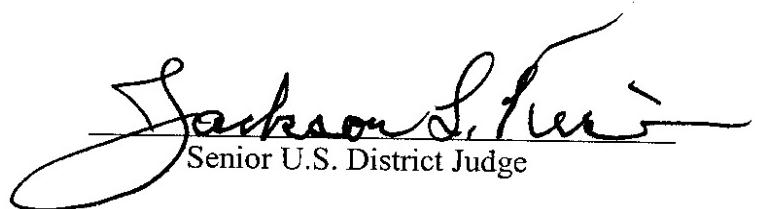
In his request for injunctive relief, plaintiff has not alleged any facts which suggest he is likely to suffer imminent, irreparable harm. As such, it is hereby

**ORDERED**

that plaintiff's request for injunctive relief shall be and hereby is **DENIED**.

The Clerk of the Court is directed to send a certified copy of this Memorandum Opinion & Order to plaintiff.

ENTER: This 12<sup>th</sup> of July, 2005.



Senior U.S. District Judge

A handwritten signature in black ink, appearing to read "Jackson L. Fain". Below the signature, the text "Senior U.S. District Judge" is printed in a smaller, sans-serif font.